

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NUNEZ, et al.		:
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Plaintiffs,		:
		:
-v-		:
		:
CITY OF NEW YORK, et al.,		:
		:
Defendants.		X

11-CV-5845 (LTS)

ORDER

The Court has received and reviewed the attached correspondence, described below, from interested persons concerning the above-captioned case. Although the Court cannot respond individually to all of those who have expressed their thoughts or concerns, the Court is deeply mindful of the great importance of the issues raised in this case to all in this community.

1. Email dated November 5, 2022, from Rachel Gomez
2. Email dated November 5, 2022, from Alize Monroe
3. Email dated November 5, 2022, from Cindy Morales
4. Email dated November 11, 2022, from a medical care provider in the clinics serving New York City jails
5. Email dated November 16, 2022, from Molly Haley, attaching a letter from nine members of the City Council.
6. Email dated November 16, 2022, from Pilar Grullón, attaching a letter from the New York City Comptroller, Brad Lander.

Dated: November 21, 2022  
New York New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge

**From:** Rachel Gomez  
**To:** NYSD Swain Corresp  
**Subject:** Rachel Gomez  
**Date:** Saturday, November 5, 2022 11:59:28 AM

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**CAUTION - EXTERNAL:**

Dear Honorable Judge Laura Swain,

My name is Rachel Gomez and I am a New York City Resident. I am writing to you today to urge you – Honorable Judge Laura Swain – to call for Receivership on Rikers Island at the upcoming November 17th hearing.

Decades of corruption and mismanagement have proven that New York City is unable to improve the deadly human rights crisis manufactured by the Department of Correction. Since Mayor Adams has entered office, 18 detained people have died on Rikers in 2022 – all of which were because they did not receive adequate or timely medical treatment. That is the highest number of deaths on Rikers in over a decade, when the population was significantly higher.

We demand you to put Rikers in the hands of responsible leadership – an independent receiver who can be a consistent leader and override the bureaucratic red tape that no City Commissioner has been able to curtail.

I appreciate your time and would like a response by email at [REDACTED] or by phone at [REDACTED]. Thank you for your time.

Sincerely,  
Rachel Gomez

**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

**From:** Alize Rivera  
**To:** NYSD Swain Corresp  
**Subject:** RIKERS !!!  
**Date:** Saturday, November 5, 2022 1:48:30 PM

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**CAUTION - EXTERNAL:**

Dear Honorable Judge Laura Swain,

My name is Alize Monroe, I am a New York City Resident. I am writing to you today to urge you – Honorable Judge Laura Swain – to call for Receivership on Rikers Island at the upcoming November 17th hearing.

Decades of corruption and mismanagement have proven that New York City is unable to improve the deadly human rights crisis manufactured by the Department of Correction. Since Mayor Adams has entered office, 18 detained people have died on Rikers in 2022 – all of which were because they did not receive adequate or timely medical treatment. That is the highest number of deaths on Rikers in over a decade, when the population was significantly higher.

We demand you to put Rikers in the hands of responsible leadership – an independent receiver who can be a consistent leader and override the bureaucratic red tape that no City Commissioner has been able to curtail.

I appreciate your time and would like a response by email at [REDACTED]. Thank you for your time.

Sincerely,  
Alize Monroe

**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

**From:** Cindy Morales  
**To:** NYSD Swain Corresp  
**Date:** Saturday, November 5, 2022 5:04:06 PM

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**CAUTION - EXTERNAL:**

Dear Honorable Judge Laura Swain,

My name is Cindy Morales and I am a New York City Resident]. I am writing to you today to urge you – Honorable Judge Laura Swain – to call for Receivership on Rikers Island at the upcoming November 17th hearing.

Decades of corruption and mismanagement have proven that New York City is unable to improve the deadly human rights crisis manufactured by the Department of Correction. Since Mayor Adams has entered office, 18 detained people have died on Rikers in 2022 – all of which were because they did not receive adequate or timely medical treatment. That is the highest number of deaths on Rikers in over a decade, when the population was significantly higher.

We demand you to put Rikers in the hands of responsible leadership – an independent receiver who can be a consistent leader and override the bureaucratic red tape that no City Commissioner has been able to curtail.

I appreciate your time and would like a response by email at [REDACTED] Thank you for your time.

Sincerely,  
Cindy Morales

**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

From: [REDACTED]  
To: NYSD Swain Corresp  
Subject: receivership  
Date: Friday, November 11, 2022 9:38:05 AM

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**CAUTION - EXTERNAL:**

The Honorable Laura Taylor Swain  
Chief Judge, U. S. District Court for the Southern District of New York

Dear Chief Judge Swain,

This is the second time I have written to you in the hope that you will rule for federal receivership for New York City jails.

In almost five years of providing medical care to detainees in ten jails in the city I have seen conditions for them get progressively worse.

The Nunez monitor notes that some progress indicators are improving. That may or may not be true. But it is indisputable that the most important outcome indicator, the number of deaths, is increasing.

My experience working inside the jails has demonstrated to me that the City, the Commissioner, and the staff of the Department of Correction are **unable** to make the changes that will lead to short term and longer term sustainable improvements to protect and promote the human rights of those who are detained there. It is a complex adaptive system that will always revert to a dysfunctional state unless a receiver has the power to make high level policy decisions and put them into action.

I hope that you will make the right decision to invoke receivership soon.

Sincerely,

Dr [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

**From:** Haley, Molly  
**To:** NYSD Swain Corresp  
**Subject:** Council Member Letter in Support of DOC Receivership  
**Date:** Wednesday, November 16, 2022 8:26:27 AM  
**Attachments:** Receivership LOS November2022.pdf

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**CAUTION - EXTERNAL:**

Judge Swain,

I have attached a letter from nine NYC Council Members in support of federal receivership for the Department of Correction.

Thank you,  
Molly Haley

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Molly Haley  
Legislative Director  
Office of Council Member Lincoln Restler  
mhaley@council.nyc.gov

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The Honorable Chief Judge Laura Taylor Swain  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10006

November 16, 2022

Dear Chief Judge Swain,

As members of the City Council, we are elected to the important task of overseeing New York City's agencies - including the Department of Correction (DOC). It is with that responsibility in mind that we are writing today to urge you to place the DOC under federal receivership.

In the seven years since the Nunez consent decree was signed, DOC has seen four commissioners and two mayors, all of whom have tried and come up short in implementing necessary reform initiatives and achieving meaningful culture change. We have been deeply affected by the Federal Monitor's documentation of the depth and intractability of the crisis, but he does not have the tools needed to change Rikers. Current policies have not adequately addressed the crisis and we believe recently enacted policy changes may have exacerbated conditions.

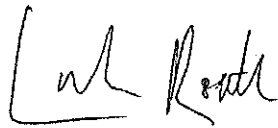
Security Risk Groups are now mixed, which has led to spikes of violence so significant that two facilities are now on indefinite lockdown. Discipline for serious breaches of security, including endangering public safety by erroneously releasing detainees, has been decreased and cargo pants, which were previously identified by the Department of Investigation as a significant driver of staff introduced contraband, are once again part of correction officers' uniforms. The chronic absenteeism of Correction Officers has not improved nearly enough. Correctional union-driven policy changes have contributed to a sharp rise in detainee deaths and disfigurements, yet none of these policies have been altered or reversed.

Over the past 11 months, many of us have visited the jails and have held public and private meetings with the Department of Correction's executive leadership. On these visits, we have continued to witness Rikers' deteriorating conditions and spoken with dozens of detainees who experience a lack of basic services and safety precautions. Despite promises from leadership, the jails have grown more deadly and far less transparent.

Receivership is the necessary step to improve conditions in our jails. It would give the people running the City's jails independence from political interference and allow for the implementation of common sense, proven strategies to improve safety and wellbeing of detainees and DOC staff. Receivership would ensure the jails are adequately staffed, the workforce could be restructured, bad actors could be terminated, and outside talent hired. It would expedite the procurement of technology solutions, so that critical Rikers Island data is no longer tracked with paper and pen

Thirty-four people have died on Rikers Island in the last twenty-two months and we will not continue to stand by while our constituents, who are pre-trial detainees, repeatedly perish in government care in public facilities. We urge you to help put an end to this crisis and appoint a receiver.

Sincerely,



Council Member Lincoln Restler, District 33



Council Member Keith Powers, District 4



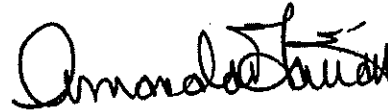
Council Member Shekar Krishnan, District 25



Council Member Carmen De La Rosa, District 10



Council Member Crystal Hudson, District 35



Council Member Amanda Farfas, District 18



Council Member Chi Ossé, District 36



Council Member Erik Bottcher, District 3



Council Member Mercedes Narcisse, District 46



**From:** Grullon, Pilar  
**To:** NYSD Swain Corresp  
**Subject:** Letter from NYC Comptroller Brad Lander to Judge Swain  
**Date:** Wednesday, November 16, 2022 6:22:20 PM  
**Attachments:** 11.16.22 Judge Swain DOC Compliance with Nunez Consent Judgement .pdf

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**CAUTION - EXTERNAL:**

Good evening,

Please find attached a letter from Comptroller Brad Lander to Judge Swain regarding the New York City Department of Correction's compliance with the Nunez Consent Judgement. Your response and acknowledgement of receipt of this message are appreciated. Thank you.

Best,

**Pilar Grullón**  
Deputy Chief of Staff  
Office of the New York City Comptroller Brad Lander  
1 Centre Street, 5<sup>th</sup> Floor, New York, NY 10007

**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BRAD LANDER

November 16, 2022

Honorable Laura T. Swain  
Judge of the District Court for the Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Compliance with Nunez Consent Judgement

Dear Judge Swain:

I am writing today to register my serious concerns with the lack of progress made by the Department of Correction (DOC) to comply with the Nunez consent decree to address the violence afflicting New York City jails and create a functional system that keeps both those in custody and the staff charged with their care safe. To address the immediate crisis – which is rooted largely in long-standing mismanagement of staff and union leadership recalcitrance – I believe that a receiver should be appointed at Rikers Island.

As Comptroller of New York City, my office provides transparency and reliable information about New York City government and expenditures to identify opportunities for improvement and responsible stewardship of city resources. In Fiscal Year 2021 alone, our office settled and adjusted over \$28 million in Rikers-related claims, a snapshot of the fiscal risks to the City posed by mismanagement of our jail system.

In August 2022, we launched a dashboard which is updated monthly to provide regular information to the public on key agency metrics, including staff absenteeism, rates of violence, and missed medical appointments among other data. Unfortunately, the data have consistently shown how little has been done to ameliorate the growing death and violence that plagues our New York City jails. According to our office's latest dashboard update:

- the share of uniformed staff on sick leave has stubbornly remained at 12% for the fourth consecutive month (double the pre-pandemic level and far above other uniformed agencies);
- use of force remains high at over 34 incidents per 100 persons in custody for the last quarter, 80% higher than the pre-pandemic average,
- assaults on staff and stabbing incidents have increased from the prior month, stabbings are 4.5 times more frequent than the 2019 average.

DOC's use of lockdowns with increased frequency and for longer durations has resulted in significant delays in DOC's provision of Minimum Standards-mandated services such as medical

and mental health care. This is especially troubling given that individuals with mental illness comprise 18% of the overall jail population. During my visit to Rikers this past August, I was assured by DOC staff that there were no issues with suicide watch observation units. It became clear just a day later just how untrue this was when we learned that Michael Nieves had attempted suicide while Correction officers watched and failed to intervene just a few days earlier, and was dying while we there. With insufficient staff protocols and mental health care services, it is tragic but not surprising that about 28% of the deaths this year have been confirmed or suspected suicides.

There are many DOC staff at Rikers Island working in good faith to improve conditions for the people in their custody — I met many of them on that same visit. However, these repeated failures raise serious questions about the ability of any Commissioner to bring about the changes, and culture shift, that is necessary to keep everyone safe. The Federal Monitoring team in its update on October 28<sup>th</sup>, asserted that “decades of mismanagement have created a deep-seated culture that is steeped in poor practices, illogical procedures, and little accountability for the humane treatment of people in custody.” In the report, it was mentioned that all-encompassing change would be needed and yet there remains a “continued high risk of harm to staff and incarcerated individuals.” By the Monitoring team’s own admission, “certain legal and/or regulatory barriers...may need consideration and intervention by the Court.”

DOC has not demonstrated the ability to end the violence on Rikers Island, which the data shows continuing at an alarming rate. I urge you to appoint a Federal Receiver empowered to make decisions that the City has failed to adequately contend with for many years, whether by lack of will or through inability due to legal, regulatory or other barriers. A receiver will not be able to magically fix what has been broken at Rikers for decades, and I will continue to work aggressively for its closure by the 2027 deadline. However, I believe that a receiver would be able to execute the robust changes needed to confront the immediate humanitarian crisis in New York City’s jails.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander", with a stylized flourish at the end.

Brad Lander  
New York City Comptroller